

**REMARKS/ARGUMENTS**

Claims 1-15 are pending in the present application. Claims 1-4, 6-9, 11, 13 and 14 have been amended, and Claim 12 has been cancelled, herewith. Reconsideration of the claims is respectfully requested.

**I. 35 U.S.C. § 112, Second Paragraph**

The Examiner rejected Claims 3, 8 and 13 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. This rejection is respectfully traversed.

In rejecting Claims 3, 8 and 13 the Examiner notes that the word 'may' results in the claim being indefinite. Applicants have amended such claim to delete this objectionable terminology.

Therefore, the rejection of Claims 3, 8 and 13 under 35 U.S.C. § 112, second paragraph has been overcome.

**II. 35 U.S.C. § 103, Obviousness**

The Examiner rejected Claims 1, 2, 4, 6, 7, 9, 11, 12 and 15 under 35 U.S.C. § 103 as being unpatentable over Hobart [US Patent Application No 2002/0178255], in view of Johnson [US Patent Application No 2001/0039500]. This rejection is respectfully traversed.

Generally speaking, Claim 1 is directed to a method to provide incentives for client machines to contribute resources to a peer-to-peer computer network, the incentives being directed to requests for information from the client machines where the requested information is sent to the client machines based on a priority scheme that gives priority to requests from clients which are contributing resources to the peer-to-peer sharing.

Specifically with respect to Claim 1, it is urged that none of the cited references teach or suggest the claimed feature of "giving priority to requests from clients which are contributing resources to peer-to-peer sharing". In rejecting Claim 1, the Examiner acknowledges that the cited Hobart reference does not teach this claimed feature, but states that the cited Johnson reference teaches this claimed feature at paragraphs 0099-0103 in that Johnson teaches award equity with different priority structures to different contributors. Applicants respectfully urge that this teaching of awarding equity with different priority structures to different contributors is with respect to an equity award such as stock in a business (Hobart page 1, paragraphs 0003 - 0011), and is not directed to any type of requests for information from clients which are contributing resources to peer-to-peer sharing. So, while both Claim 1 and the cited reference both discuss priority, what is prioritized is totally different - with Claim 1 directed to giving priority to *requests from clients which are contributing resources to peer-to-peer sharing*, whereas the cited

reference discusses priority to 'contributors of a business' (page 1, paragraph 0010). This difference is two-fold. First, the 'thing' that is given priority is different, and secondly, the 'what' that is used to determine the priority is different. The 'thing' that is given priority per Claim 1 is a request for information, whereas the 'thing' that is given priority per the teachings of the cited reference is the granting/giving of an equity interest in a business, such as stock or warrants (Johnson FIG 1, block 106). The 'what' that is used to determine priority is also different. Per Claim 1, priority is given to *clients which are contributing resources to peer-to-peer sharing*, whereas the 'what' that is used to determine priority per the teachings of the cited Johnson reference is a *calculated contribution value*, which is stated to be a contribution to the value of a business (page 3, paragraph 0042), and include such things as products or services that are purchased, the type of contributor (customer, vendor, etc), and the size of the transaction (Johnson page 3, paragraph 0043). There is no mention of any type of peer-to-peer sharing or the contribution of resources to peer-to-peer sharing, as per Claim 1. Thus, for at least these two reasons, it is urged that none of the cited references teach or suggest the claimed feature of "giving priority to requests from clients which are contributing resources to peer-to-peer sharing" – as both the 'thing' that is given priority, as well as the 'what' that is used as the basis for determining priority are different. It is thus urged that Claim 1 is not obvious in view of the cited references, as there are missing claimed features not taught or suggested by any of the cited references<sup>1</sup>.

Applicants initially traverse the rejection of Claim 2 for reasons given above with respect to Claim 1 (of which Claim 2 depends upon).

Further with respect to Claim 2, such claim has been amended to further emphasize the features recited therein, as per the Specification at page 10, line 22 – page 11, line 12 which provides a *second level of prioritization for the prioritized requests themselves*, such that client machines which are contributing resources to peer-to-peer sharing and thus have their requests processed in a prioritized fashion are provided with further incentives to provide more than the minimum amount of resources for peer-to-peer sharing. Such incentives provide further motivation to maximize resources contributed to the peer-to-peer sharing by the client machines. It is respectfully submitted that none of the cited references teach or suggest such two-tiered prioritization, where prioritized requests are themselves prioritized based on the level of resources contributed by the client machines which are contributing resources to peer-to-

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<sup>1</sup> To establish prima facie obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. MPEP 2143.03. See also, *In re Royka*, 490 F.2d 580 (C.C.P.A. 1974) (emphasis added by Applicants). If the examiner fails to establish a prima facie case, the rejection is improper and will be overturned. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

peer sharing. It is therefore further urged that Claim 2 is not obvious in view of the cited references as there are additional claimed features not taught or suggested by the cited references.

Applicants traverse the rejection of Claim 4 for similar reasons to those given above with respect to Claim 2.

Applicants traverse the rejection of Claim 6 for similar reasons to those given above with respect to Claim 1.

Applicants traverse the rejection of Claims 7 and 9 for similar reasons to those given above with respect to Claim 2.

With respect to Claim 11, such claim has been amended to include the features previously recited in Claim 12 (which is thus being cancelled herewith without prejudice or disclaimer). As amended, Claim 11 recites two different queues – a queue and a second queue – where a register which maintains a queue of the received requests based upon a priority scheme giving priority to requests from clients which are contributing resources to peer-to-peer sharing, and this register also maintains a second queue for requests from clients which contribute resources, wherein higher priority is given in proportion to the level of resources contributed. None of the cited references teach such two-tiered queuing organization, and therefore it is urged that Claim 11 is not obvious as there are missing claimed features not taught or suggested by the cited references.

With respect to the rejection of Claim 15, it is believed that this is a typographical error and that the Examiner intended to reject Claim 14 here, as Claim 14 (and not Claim 15) is listed in the detailed remarks section and Claim 15 is also rejected in a different section of the present Office Action using an additional reference. As to Claim 14, Applicants traverse the rejection of such claim for similar reasons to those given above with respect to Claim 9.

Therefore, the rejection of Claims 1, 2, 4, 6, 7, 9, 11, 12 and 15 under 35 U.S.C. § 103 has been overcome.

### **III. 35 U.S.C. § 103. Obviousness**

The Examiner rejected Claims 3, 5, 8, 10, 13 and 15 under 35 U.S.C. § 103 as being unpatentable over Hobart [US Patent Application No 2002/0178255], in view of Johnson [US Patent Application No 2001/0039500], and further in view of McCoy et al. [US Patent Application No 2001/0037311]. This rejection is respectfully traversed for reasons given above with respect to Claims 2, 4, 6, 9, 11 and 12, respectively.

Therefore, the rejection of Claims 3, 5, 8, 10, 13 and 15 under 35 U.S.C. § 103 has been overcome.

**IV. Conclusion**

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,



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